

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DERRICK LYNN SORRELLS §
VS. § CIVIL ACTION NO. 1:09-CV-562
REGINALD GOINGS, ET AL. §

**MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Derrick Lynn Sorrells, a prisoner confined at the Larry Gist State Jail, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Reginald Goings, Brian Rodeen, and Brad Livingston.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has filed a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the action as repetitious of a pending case.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Plaintiff filed a response to the report and recommendation in which he requests to dismiss the action voluntarily. After due consideration, the court is of the opinion that plaintiff's request to dismiss should be granted, and the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1).

ORDER

Accordingly, plaintiff's request to dismiss the case is **GRANTED**. The report of the magistrate judge is partially **ADOPTED** to the extent it recommends dismissing the action. A final judgment will be entered dismissing the action without prejudice in accordance with this Memorandum Order.

So **ORDERED** and **SIGNED** this **30** day of **September, 2009**.



Ron Clark, United States District Judge